IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1737 of 1984
with
FIRST APPEAL No. 858 of 1985

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SUSHILABEN JAYANTILAL SHAH - Appellant(s)
Versus
BHIKHHABHAI K LIMACHIYA & 2 - Defendant(s)

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Appearance :
FIRST APPEAL NO.1737 OF 1984:

MS JIRGA D JHAVERI, for Appellant(s) : 1,UNSERVED-EXPIRED (R) for Appellant(s) : 1.2.1,1.2.3 NOTICE SERVED for Appellant(s) : 1.2.2,1.2.4

MR VH DESAI for respondent No.3.

FIRST APPEAL NO. 858 OF 1985:
MR KG SHETH for Appellant

MR HARDIK C RAVAL DESAI for respondent : 3,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 21/11/2007

ORAL JUDGMENT

1. Common judgment and award dated 31.3.1984 of Motor Accident Claims Tribunal (Aux.), Mehsana, *inter alia* in M.A.C.P. Nos.463 of 1981 and 487 of 1981 is under challenge in both the appeals. In First Appeal No. 1737 of 1984 arising from M.A.C.P. No.487 of 1981, learned Counsel Ms.Jirga Jhaveri has appeared for heirs of the original appellant. The original claimant in M.A.C.P. No.487 of 1981 had claimed Rs.20,000/- as compensation for the injuries sustained on account of the accident which happened on 15.6.1981 due to collision of two buses of respondent No.3. After holding that the claimants had suffered bodily injuries because of rash and negligent driving of both the buses by the drivers, the Tribunal has awarded total sum of Rs.8,300/- in M.A.C.P. No.487 of 1981 and Rs.1,250/- to the claimant in M.A.C.P. No.463 of 1981 as compensation.

2. Perusing the record it was found that the injuries sustained by the claimant in M.A.C.P. No.487 of 1981 comprised of fracture of nasal bone and small abrasions which required treatment for a few days. The Tribunal awarded Rs.1,500/- towards purchase of medicines, for special food and medical charges and Rs.4,000/- towards mental shock, suffering and loss of amenities of life. The main grievance of the appellant was that no amount was awarded towards loss of income. However, admittedly, the victim was working as an agent of LIC and he had done his business in the relevant year as also the subsequent

year. There was no specific evidence of loss of income - attributable to the injuries.

3. In the second matter arising from M.A.C.P. No.463 of 1981, the appellant was a young lady who had claimed Rs.5,000/- as compensation for the injuries sustained on her right leg, lips and jaws. Although the injuries were proved, no documentary evidence regarding transport charges, medicines or special food was produced before the Tribunal. Therefore, compensation in that regard was assessed to be Rs.100/- and Rs.150/- was assessed towards loss of income even in absence of any evidence of income. Rs.1,000/- was awarded towards compensation for suffering and loss of amenities of life in view of the nature of the injuries sustained by the victim.

4. The assessment of above damages and compensation was not found to be in any way perverse and in absence of any evidence to justify any addition to the amount of compensation, the present appeals have to be dismissed. Accordingly, they are dismissed.

(D.H.Waghela, J.)

Sreeram.